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Supreme Court, U.S.
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JOSEPH F. SPANIOL, JR.
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86 No. 448

In The

Supreme Court Of The United States

OCTOBER TERM, 1986

STATE OF CONNECTICUT,
Petitioner,

v.

CHARLES M. GRAY,
Respondent.

REPLY BRIEF IN SUPPORT OF THE PETITION FOR A WRIT OF CERTIORARI TO THE CONNECTICUT SUPREME COURT

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ARGUMENT

The State of Connecticut replies to three points made by the respondent, two of which involve what the respondent labels as a "distorted" view of the factual basis for the Connecticut Supreme Court's opinion. Respondent's Brief (Resp. Br.) at 3, 5.

1. The respondent first claims that the State has distorted the factual basis of the Connecticut Supreme Court's opinion by citing the Court's finding that the respondent had told Officer Higgins, prior to the respondent's first confession, that he was "familiar with his rights" but that he "wanted to talk anyway." Pet. at 2; Resp. Br. at 4. It is hard to see how the State, by relying on this fact, has distorted the Court's factual basis when the Court itself has included this fact in identical form in its factual summary. Pet. App. at 5A. Although the Court understandably did not rely on this fact in its analysis, since it tends to undermine its conclusion, nothing precludes the State from relying on it in this Court. The respondent himself argues that the facts and circumstances surrounding the first confession bear significance on the admissibility of the second. Resp. Br. at 9. Logically, this rule applies for the State's benefit as well. Thus the Connecticut Supreme Court's recitation of testimony revealing that the respondent understood his rights and wished to waive them prior to his first confession appropriately supports a similar conclusion with regard to his second confession.

2. The respondent also charges the State with distorting and taking out of context the respondent's statement that he "didn't mind talking about any credit cards." Pet. at 3; Resp. Br. at 4. Dissenting Justice Santaniello specifically relied on this statement to support his conclusion that the respondent "implicitly waived his right to remain silent by his expressed willingness to speak." Pet. App. at 21A. This analysis was proper. The respondent had testified that Lieutenant Laufer did not ask him anything concerning whether he was "involved in any other crimes, besides the credit cards." Resp.

App. at 5A. Since the respondent provided a lengthy confession that detailed his involvement not only with stolen credit cards but also in the underlying robbery, Pet. App. at 7A n.3, it appears, given the respondent's testimony, either that the respondent volunteered the additional information concerning his involvement in the robbery, which would certainly eliminate all constitutional concerns, *see Miranda v. Arizona*, 384 U.S. 436, 478 (1966), or, more likely perhaps, the respondent considered the phrase "credit cards" to refer to the entire motel robbery as opposed to any other crimes in which he may have participated. In either event, Justice Santaniello's conclusion that the respondent had implicitly waived his rights as to the entire robbery remains valid.

3. Finally, the respondent labels the delay in the signing of the rights waiver form as "suspicious" because, according to the respondent, Officer Higgins was present and available at the outset of the confession to serve as a witness to the respondent's signature. Resp. Br. at 6–7. The Connecticut Supreme Court, however, made no mention of this possibility, and instead made the essentially opposite observation that "neither the witness nor the defendant signed the form until 6:42 p.m. because '[t]he officer that was nearby had left.' " Pet. App. at 7A. Certainly nothing in the opinion below provides any indication that the delay in the respondent's signing of the rights waiver form stemmed from any reluctance on his part to speak with the police. Under these circumstances, the fact that the respondent eventually signed the rights waiver form can only add to and not subtract from the abundant evidence that he waived his *Miranda* rights.

CONCLUSION

For the foregoing reasons, and for the reasons stated in the Petition, this Court should grant a writ of certiorari to the Connecticut Supreme Court and summarily reverse its judgment.

Respectfully submitted.

THE STATE OF CONNECTICUT

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